

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant(s): Sidney Smith et al.
Appl. No.: 09/813,351
Conf. No.: 3473
Filed: March 19, 2001
Title: LARGE VOLUME FLEXIBLE CONTAINER
Art Unit: 3727
Examiner: Jes F. Pascua
Docket No.: CRTS-5679 (0112713-968)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Dear Sir:

I. **INTRODUCTION**

This Reply Brief is submitted in response to the Examiner's Answer mailed on December 11, 2006. The Reply Brief is directed, in part, to the new points of argument and arguments presented in the Examiner's Answer.

I. **THE EXAMINER'S INTERPRETATION OF VALLOT IS IMPROPER**

Appellants steadfastly disagree with and traverse the Examiner's interpretation of *Vallot*. It is a fundamental axiom of the patent law that a reference must be considered as a whole for what it reasonably discloses to those of ordinary skill in the art. *In re Wright*, 6 USPQ2d 1959 (Fed. Cir. 1988). Appellants respectfully submit that the Examiner has failed to follow this cornerstone of the patent law by picking and choosing isolated portions of *Vallot* in order to deprecate Appellants' claims. When *Vallot* is properly considered as a whole for what it reasonably discloses to those of ordinary skill in the art, *Vallot* fails to disclose or suggest two claim elements: 1) "an additional amount of material" permitting 2) the end panel "to extend outwardly...beyond the imaginary plane when the container is filled..." as recited in claim 17.